

Message Text

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44

ORIGIN EB-03

INFO OCT-01 SS-14 ISO-00 ARA-06 L-01 SP-02 INR-05 RSC-01

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FM SECSTATE WASHDC

TO AMEMBASSY KINGSTON PRIORITY

C O N F I D E N T I A L STATE 248106

LIMDIS

E.O. 11652: GDS

TAGS: EMIN, EINV, JM

SUBJ: STATUS OF ICSID APPEAL

REF: STATE 245031

1. WE HAVE DISCUSSED THE ICSID ARBITRATION PROCESS AND TIMING FURTHER WITH COMPANY LAWYERS AND WISH TO PASS THE INFORMATION ON TO YOU. LETTERS FROM EACH OF THE COMPANIES WERE SENT TO ICSID SEC GEN BROCHES NOV. 8. ICSID HAS 30 DAYS (UNLESS PARTIES AGREE TO EXTENSION) FROM RECEIPT OF THE LETTERS TO COMPLETE THE PANEL. WITHIN 60 DAYS (UNLESS PARTIES AGREE TO EXTENSION) OF DATE CONSTITUTED, PANEL MUST HOLD PRELIMINARY MEETING WITH THE COMPANIES (THE GOJ WOULD BE INVITED) TO DISCUSS PRELIMINARY ISSUES.

2. BEYOND THIS, IT IS DIFFICULT TO FORESEE THE PACE OF THE PROCESS OF ARBITRATION. MUCH DEPENDS ON WHO THE ARBITRATORS ARE, THEIR OTHER COMMITMENTS, AND THEIR WORK HABITS. WHILE THE CLAIMS OF THE COMPANIES ARE BASICALLY THE SAME, DIFFERENCES IN THE ICSID CLAUSES OF THE THREE
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CONTRACTS REQUIRE DECISIONS ON A NUMBER OF LEGAL POINTS

THAT AFFECT PROCEDURE. IF WITNESSES ARE CALLED, THEIR AVAILABILITY WILL AFFECT TIMING. THE COMPANIES INTEND TO MOVE AS EXPEDITIOUSLY AS POSSIBLE AND ALL WRITTEN PRESENTATIONS COULD BE COMPLETED SIX MONTHS FROM NOW.

FOLLOWING RECEIPT OF WRITTEN ARGUMENT, AN ARBITRAL PANEL OFTEN CAN HEAR ORAL ARGUMENT AND REACH A DECISION FAIRLY QUICKLY, IF IT IS JUDGING A SINGLE CASE. NEVERTHELESS THE TIMING OF THIS ARBITRATION IS QUITE UNCERTAIN AT THIS EARLY STAGE.

3. ALUMINUM COMPANY LAWYERS ALSO INFORMED US THAT THE GOJ HAS SCHEDULED TALKS WITH REVERE FOR NOV. 11-12 AND KAISER NOV. 13-14. KISSINGER

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